

## ZONING BOARD OF REVIEW MINUTES

MAY 7, 2008

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, May 7, 2008 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, Jay Jackson, Richard Taylor, Lise Gescheidt & Raymond LaFazia.

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by Scott Neville, Manager of The Tin Man LLC, 3940 Main Road, Tiverton, RI requesting an extension or ruling that the variance permission has been exercised as per Article XV, Section 5.c. of the Tiverton Zoning Ordinance for the property known as 3940 Main Road, Tiverton, RI being Map 2-3, Block 125, Card 14 on Tiverton Tax Assessor's Maps and located in a R80 zone.

**DECISION:** Mr. Neville appeared before the board and requested an extension, due to the fact DEM is still reviewing his application for a septic system. Mr. Jackson made a motion to grant a 6 month extension in this matter. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: David Collins, Richard Taylor, John Jackson, Lise Gescheidt & Raymond LaFazia.

2. A petition has been filed by Raymond Holland of 1340 Main Road, Tiverton, RI, Attorney for Citizens Union Savings Bank requesting a variance to Article V, Section 2.d. of the Tiverton Zoning Ordinance in order to subdivide one parcel into three separate parcels located at 0 Crandall Road & Bulgarmarsh Road, Tiverton, RI being Map 4-9, Block 141, Card 12A on Tiverton Tax Assessor's maps with one of them, known as Parcel C, having less than required frontage in a General Commercial Zone.

**DECISION:** Mr. Raymond Holland was duly sworn in and appeared on behalf of the bank. He stated that the bank wished to divide one parcel into a three parcel subdivision. What has transpired here is that the bank as the owner of those premises designated as 12A has, in essence, reached an agreement with the Tiverton Library Committee and the Tiverton Library Committee has agreed and wants to purchase for a new library those premises designated as Parcel A as shown on the subdivision plan. Parcel B and Parcel C are two separate parcels that would have their frontage on Crandall Road.

Parcel B has 120 feet of frontage according to the subdivision plan and Parcel C only has 95. Under the zoning ordinance it's required that the frontage on a lot created needs 120 feet. Mr. Holland explained that himself and Todd Chaplan met with Noel Berg from the Planning Board and Chris Spencer and they looked over the plan and felt that a common driveway would be the most appropriate thing to do with this subdivision, thereby eliminating putting in a road there and any extra curb cuts.

The board had questions about storm water drainage. Mr. Holland replied that they haven't got to that point yet, but they will do so after they receive the variance.

The Tax Assessors' Map was marked as Exhibit A and two decisions from the Planning Board was marked as Exhibit B.

Todd Chaplan an engineer from Mount Hope Engineering appeared before the board and stated that there is going to be a common driveway that comes in and will form a T at the end; one going to the north to serve lot B and one going to the south to serve lot C and then they will go into their respective parking areas and then come back out to this common driveway. There would only be one in, one out through the common driveway.

Mr. Spencer appeared before the board and stated that he believed that a common driveway would be the best scenario for this subdivision, rather than a road. It will save on pavement and also on curb cuts and would be in the best interest of everyone.

Mr. Nathan Godfrey appeared before the board and stated that this was appropriately zoned and he also stated that this is consistent with the neighborhood. Mr. Godfrey further stated that the relief requested would be the least variance necessary to allow the creation of the subdivision.

The Board went into Executive Session and discussed the petition. Ms. Gescheidt made a motion to grant the variance for the following reasons: that it's in the public interest, that if the board were to deny it, they would have to do more development that would be contrary to the public interest and create more run off. In addition, it is the least relief necessary to allow the subdivision to be developed, and also there are conditions that are peculiar to the site that were not caused by any action of the bank or the owner of the parcel. Mr. Jackson seconded. The Vote was unanimous. Voting were: David Collins, Richard Taylor, John Jackson, Lise Gescheidt & Raymond LaFazia.

3. A petition has been filed by Douglas Rivera, President of Nonquit Realty Corporation of Providence, RI requesting a Special Use Permit to Article IV, Section 2.j. and 10.b. and Article VI, Section 7.b. of the Tiverton Zoning Ordinance in order to renovate and construct an addition to an existing structure and to install a OWTS within 200' of Nanaquaket Pond, located at 2139 Main Road, Tiverton, RI being Map 1-9 Block 71 Card 1 on Tiverton Tax Assessor's maps whereby requiring the issuance of a Special Use Permit in a Waterfront zone.

**DECISION:** Attorney Richard Sherman appeared on behalf of Nonquit Realty and stated he had four witnesses to call for this petition.

Douglas Rivera, President of Nonquit Realty, appeared before the board and presented his plans for renovation of the existing building at 2139 Main Road. He stated that he would like to develop this site into a 15 room inn. Each guest would have their own bathroom facilities. They would also like to put in a spa which would only be available for guests. The spa would be an addition to the L shaped portion of the building in the back and would not be visible from the road. The existing garage would be removed and a new state of the art ISDS system will be installed in its place.

Mr. Rivera stated that there will be no kitchen or bar in this establishment. The parking lot will remain pervious as it is now to help the storm water runoff and there will be two handicapped spots which will also be pervious. They would also add a boardwalk on the southern part of the property which makes a small turn along the western side. The western side being the bulkhead which goes along Nanaquaket River.

There will also be landscaping and anticipation of a green roof for water runoff. If a green roof is not feasible, they anticipate adding another device to take care of the storm water run off issues. The existing entrance will remain the same.

Mr. Rivera and his wife will be running the inn. Standard check in time will be 3:00 p.m. and check out time will be 11:00 a.m. There will be a dumpster located in the basement of the facility. They anticipate having 10 full-time and part-time positions.

One neighbor stated that he is outside of the 200 feet notice requirement but requested the petitioner to inform them of any further meetings on this matter. The petitioner stated he didn't have a problem with doing that.

Laura Ernst, environmental consultant, appeared before the board and stated that the ISDS system is a denitrification system. It's an Advantec system and it's located in the area generally where the former garage or the existing garage is. And the components include above ground and below ground components. It is a bottomless sand filter system which is designed to remove nutrients from the gray water so that there is no nutrient inputs into the ground water system. Ms. Ernst also stated that there is a power back up system if power is lost and it is also monitored for such instances. One neighbor was concerned about any smell emanating from the system.

Janet Bernardo, senior civil engineer, appeared before the board. Ms. Bernardo conducted a traffic assessment on this property. She stated that the volume of daily traffic from Little Compton turns onto Bulgarmarsh Road and does not pass through this intersection. She also stated that she believes that adding a 15 bedroom inn will not contribute to any excessive traffic in the area, due to the nature of the business.

Rosemary Eva questioned whether a professional for the Town has reviewed this report and the Board replied no, they have not.

Thomas Andolofo appeared before the board and testified as follows: He conducted a detailed site inspection and have also appraised numerous properties in town. He stated that this property will not have any adverse impact on the neighboring properties. He feels it is an improvement and will increase the values in the area. It's a small scale development and fits in with the comprehensive community plan in the town.

A letter from Steve Macdonald in support of this petition was marked as Exhibit A.

The Board went into Executive Session and discussed the petition. Ms. Gescheidt made a motion to grant the two special use variances and requested to incorporate the findings of the real estate expert, Mr. Andolfo's affidavit in paragraphs four and five which adequately reflects the standards that the board has to apply. The following conditions will be placed: That there will be no restaurant facilities, bar facilities or retail facilities other than the selling of soaps and beauty treatment supplies from the spa added to this plan. Mr. Jackson seconded. The Vote was unanimous. Voting were: David Collins, Richard Taylor, John Jackson, Lise Gescheidt & Raymond LaFazia.

4. A petition has been filed by Douglas Rivera, President of Nonquit Realty Corporation of Providence, RI requesting a variance to Article XIV, Section 5.d. of the Tiverton Zoning Ordinance in order to construct an addition to an existing legal non-conforming structure located at 2139 Main Road, Tiverton, RI being Map 1-9 Block 71 Card 1 on Tiverton Tax Assessor's maps which is currently not allowed in a Waterfront zone.

**DECISION:** Attorney Richard Sherman appeared on behalf on Nonquit Realty and stated he had four witnesses to call for this petition.

Douglas Rivera, President of Nonquit Realty, appeared before the board and presented his plans for renovation of the existing building at 2139 Main Road. He stated that he would like to develop this site into a 15 room inn. Each guest would have their own bathroom facilities. They would also like to put in a spa which would only be available for guests. The spa would be an addition to the L shaped portion of the building in the back and would not be visible from the road. The existing garage would be removed and a new state of the art ISDS system will be installed in its place.

Mr. Rivera stated that there will be no kitchen or bar in this establishment. The parking lot will remain pervious as it is now to help the storm water runoff and there will be two handicapped spots which will also be pervious. They would also add a boardwalk on the southern part of the property which makes a small turn along the western side. The western side being the bulkhead which goes along Nanaquaket River.

There will also be landscaping and anticipation of a green roof for water runoff. If a green roof is not feasible, they anticipate adding another device to take care of the storm water run off issues. The existing entrance will remain the same.

Mr. Rivera and his wife will be running the inn. Standard check in time will be 3:00 p.m. and check out time will be 11:00 a.m. There will be a dumpster located in the basement of the facility. They anticipate having 10 full-time and part-time positions.

One neighbor stated that he is outside of the 200 feet notice requirement but requested the petitioner to inform them of any further meetings on this matter. The petitioner stated he didn't have a problem with doing that.

Laura Ernst, environmental consultant, appeared before the board and stated that the ISDS system is a denitrification system. It's an Advantec system and it's located in the area generally where the former garage or the existing garage is. And the components include above ground and below ground components. It is a bottomless sand filter system which is designed to remove nutrients from the gray water so that there is no nutrient inputs into the ground water system. Ms. Ernst also stated that there is a power back up system if power is lost and it is also monitored for such instances. One neighbor was concerned about any smell emanating from the system.

Janet Bernardo, senior civil engineer, appeared before the board. Ms. Bernardo conducted a traffic assessment on this property. She stated that the volume of daily traffic from Little Compton turns onto Bulgarmarsh Road and does not pass through this intersection. She also stated that she believes that adding a 15 bedroom inn will not contribute to any excessive traffic in the area, due to the nature of the business.

Rosemary Eva questioned whether a professional for the Town has reviewed this report and the Board replied no, they have not.

Thomas Andolofo appeared before the board and testified as follows: He conducted a detailed site inspection and have also appraised numerous properties in town. He stated that this property will not have any adverse impact on the neighboring properties. He feels it is an improvement and will increase the values in the area. It's a small scale development and fits in with the comprehensive community plan in the town.

A letter from Steve Macdonald in support of this petition was marked as Exhibit A.

The Board went into Executive Session and discussed the petition. Ms. Gescheidt made a motion to grant this variance stating that this project is an improvement to the town. It is not contrary to public interest and is in accordance with the comprehensive community plan of the town. The following conditions will be placed: That there will be no restaurant facilities, bar facilities or retail facilities other than the selling of soaps and beauty treatment supplies from the spa added to this plan. Mr. LaFazia seconded. The Vote was unanimous. Voting were: David Collins, Richard Taylor, John Jackson, Lise Gescheidt & Raymond LaFazia.

5. A petition has been filed by the Tiverton Yacht Club, 58 Riverside Drive appealing a decision of the Tiverton Building/Zoning Official to issue a Notice of Violation dated March 12, 2008 to remove the toilet/bath trailer parked on the property located at 58 Riverside Drive, Tiverton, RI being Map 6-5 Block 70 Card 5 on Tiverton Tax Assessor's maps located in a R40 zone.

**DECISION:** Mr. Collins recused himself. The Board did not have a full quorum to hear this case. The case was continued until June 4, 2008.

6. A petition has been filed by James Picard of 549 Stafford Road requesting a variance to Article VIII, Section 3.d.1. of the Tiverton Zoning Ordinance in order to construct a shed at 549 Stafford Road, Tiverton, RI being Map 3-12 Block 113 Card 32 on Tiverton Tax Assessor's maps within 200' of Stafford Pond whereby a use variance is required in a R60 zone.

**DECISION:** James Picard appeared before the board requesting to build a 10 by 14 shed with a cinderblock foundation to store a motorcycle, lawnmower, and yard furniture within 200 feet of Stafford Pond. The reason for putting it in that location is that he would have to clear many trees and he did not wish to do that.

The Board went into Executive Session and discussed the petition. Mr. Jackson made a motion to grant this variance based on the fact that it is a movable structure, it does not pose any nuisance to the neighbors and the peculiarity of the site makes it impossible to put it elsewhere. It would be more detrimental to the environment if he were to cut down trees just for this shed. Mr. LaFazia seconded it. The Vote was unanimous. Voting were: David Collins, Richard Taylor, John Jackson, Lise Gescheidt & Raymond LaFazia.

ZBR: mae

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, hereby certify that the foregoing 7 pages are transcribed to the best of my knowledge, skill & ability.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 4th day of June, 2008.

---

Mary Ann C. Escobar, RPR